

## **MEMORANDUM**

To: Lisa Vest

From: Kristoffer Gontkovsky

Subject: **Response to Comments from the Public Hearing on the Proposed Implementation of Low Emission Vehicle (LEV) Standard into Air Regulation No. 1140**

Date: November 4, 2010

---

This package includes the following documents:

- A formal response to AIAM comments received by the Department.
- An explanation of changes made to Regulation 1140 after the public hearing.
- A “dirty” version of regulation 1140 showing changes made after the public hearing.
- A “clean” version of Regulation 1140 showing the changes incorporated into the document.

Please call me at the Dover office (302)739-9960, if you have any questions or comments.

cc: Dover File  
Dawn Minor

F:\AQM\LEV\Response to Comments from PH – Reg 1140

The Department received comments from the Association of International Automobile Manufacturers, Inc. (AIAM) on October 22, 2010 at 4:45 p.m. via email regarding the implementation of Regulation 1140 – Delaware Low Emission Vehicle Program. No other comments have been received by the Department following the public hearing which was held on October 22, 2010 at 6:00 p.m.

AIAM cited several issues they had with the proposed regulation. The goal of the Department is to maintain consistency with other states that have adopted the California low emission vehicle (CAL LEV) program and openly deliberate each topic raised by the regulated community. Therefore, careful consideration was given to each issue presented by AIAM.

**COMMENT:** Section 177 of the Clean Air Act<sup>1</sup> (“CAA”) allows states such as Delaware to adopt California standards; however, section 177 requires at least two model years lead-time before a state can adopt California emissions standards. This requirement runs two-years from the beginning of a model year. (*See* applicable EPA definitions in 40 CFR.2) For instance, the model year 2012 will begin on January 2, 2011. The effect of this provision is that if Delaware finalizes adoption of its California LEV regulations prior to January 1, 2011, then the earliest it can apply the regulations is the 2014 model year.

**RESPONSE:** *The first issue addressed was the initial model year (MY) that would be regulated under Regulation 1140. The Department intended to provide two MY lead-time before adopting CAL LEV. Changing the initial MY of vehicles regulated under Regulation 1140, from MY 2013 to MY 2014, in no way changes the intent or content of the regulation.*

**COMMENT:** Throughout the proposed Delaware regulation there is a consistent reference to the rule being effective with the 2013 model year. In light of the requirement of section 177 CAA, the effective date for these references should be amended to apply to the 2014 model year. In addition, there are several places in the proposed rule which refer to **delivery** dates (e.g. section 1140, subsections 1.2, 2.1, 2.2, 5.1, 8.1 and 8.2). Such references are confusing and unnecessary as long as DNREC complies with the 2014 model year two-year lead-time requirement (assuming the regulation is finalized before January 1, 2011). In addition, these provisions would have the effect of splitting the model year for record keeping and reporting purposes, greatly and needlessly complicating manufacturers’ efforts to comply. Making the regulations effective with a specific model year, as noted above, is much more straightforward and facilitates implementation for manufacturers.

**RESPONSE:** *Another request of AIAM was to remove delivery dates to clarify the regulation. The Department agrees and has deleted the references to the delivery dates. Again, this in no way changes the intent or content of the regulation.*

**COMMENT:** Another complication arises in section 1140.5.0 of the DNREC proposed regulations regarding the NMOG fleet-wide average exhaust emission requirement. Because the California LEV program has existed for many years (since the mid 1990s) auto manufacturers have been able to earn and bank NMOG credits and most, if not all, auto manufacturers currently have accrued NMOG credit balances. Obviously, no such credit balances exist today in Delaware. Other states that have adopted California LEV standards recently have addressed this issue by establishing beginning balances of NMOG credits for manufacturers by pro-rating California credit balances. This ensures fair treatment of manufacturers. We note that the proposed Delaware regulations include no specific provisions about such compliance procedures; instead these procedures are incorporated by reference to applicable California CCR Title 13 provisions in Table 40-1. We would be glad to work with DNREC to either draft amendments to your proposed regulatory text or draft a manufacturer guidance document to better define the specific Delaware compliance provisions that will be applicable.

**RESPONSE:** *AIAM also sought a non-methane organic gas (NMOG) credit bank to be established in Delaware to aid manufacturers with the NMOG fleet-wide average exhaust emission requirement. AIAM believes pro-rating California NMOG credit balances are warranted.*

*The Department will not be providing previously accrued NMOG credits to manufacturers. The origination of credits was established to reward manufactures who were proactively achieving emissions reductions in their vehicles prior to, or in the MY in which the reductions were required. Manufactures will still be able to benefit from credits earned in Delaware as described in 5.2 of Regulation 1140.*

Finally, AIAM states that, "In the Northeast, most states, including all the states adjoining Delaware, have adopted California standards. Consequently, nearly all AIAM member vehicles sold in Delaware already meet current California emission standards." The Department appreciates the commitment to the LEV program that AIAM has shown, not only in Delaware, but also on a national level.

## Explanation of Changes to Proposed 1140 – Delaware Low Emission Vehicle Program

Multiple changes of the same issue were made throughout the document regarding the following reoccurring themes:

- Addition of the word “new” as seen in 1.2 and 2.1 to maintain consistency of intent and content with other LEV states.
- Addition of “medium-duty vehicles” as seen in 1.2, 2.1, 5.1 to maintain consistency of intent and content with other LEV states.
- Elimination of delivery dates as seen in 1.2, 2.1, 5.0, 8.1, 8.2. Applying the request provided by AIAM to add clarity while still maintaining the intent and content of the regulation.
- Moving 2.4 to 2.2 and eliminating the original 2.2. This exemption is unnecessary as it is covered under 2.3.6. The original 2.2 also added unnecessary confusion that has been alleviated with the changing of the MY and elimination of delivery dates.
- Model Year (MY) changing from 2013 to 2014 as seen in 1.2, 2.1, 5.1, 8.1, 8.2, 8.3 in no way takes away from the intent or content of this regulation.
- LDT-2 word order in 3.0 to be consistent with the rest of the regulation.
- The word “regulation” either substituted for “subchapter” or added after a specific section of this regulation was cited to clarify and be consistent with other DE regulations as seen in 6.4, 7.2, 8.2, 9.1, 9.2, 10.1, 10.2, 10.3.

## PROPOSED REGULATION

### **1140 Delaware's National Low Emission Vehicle (NLEV) Regulation**

09/11/1999

#### **1.0 Applicability**

The environmental benefits of this regulation will be realized in all counties in the State of Delaware.

09/11/1999

#### **2.0 Definitions**

The following terms, when used in this regulation, shall have the following meanings:

**"NLEV Program"** or **"National Low Emission Vehicle Program"** means a federally enforceable, voluntary nationwide clean car program designed to reduce smog and other pollution from new motor vehicles and that would achieve emission reductions from new motor vehicles in the Ozone Transport Region equivalent to or greater than would be achieved by the adoption of the CAL-LEV (California Low Emission Vehicle) Program by all the OTC states.

09/11/1999

#### **3.0 Program Participation**

3.1 For the duration of Delaware's participation in NLEV, manufacturers may comply with NLEV or equally stringent mandatory federal standards in lieu of compliance with any program, including the provisions of this subchapter and including any mandates for sales of ZEVs (zero emission vehicles), adopted by the State pursuant to the authority provided in Section 177 of the Clean Air Act (CAA), 42 U.S.C. Section 7401 et seq., applicable to passenger cars, light-duty trucks up through 6,000 pounds GVWR (gross vehicle weight rating), or medium-duty vehicles from 6,001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 1, Section 1900, incorporated herein by reference.

3.2 Delaware's participation in NLEV extends until the commencement of model year 2006, except as provided in 40 C.F.R. Section 86.1707. If, no later than December 15, 2000, the EPA does not adopt standards at least as stringent as the NLEV standards provided in 40 C.F.R. Part 86, subpart R, that apply to new motor vehicles in model year 2004, 2005 or 2006, the State's participation in NLEV extends only until the commencement of model year 2004, except as provided in 40 C.F.R. Section 86.1707.

3.3 If a covered manufacturer, as defined at 40 C.F.R. 86.1702, opts out of the NLEV program pursuant to the EPA NLEV regulations at 40 C.F.R. Section 86.1707, the transition from NLEV requirements to any state Clean Air Act Section 177 Program applicable to passenger cars, light-duty trucks up through 6000 pounds GVWR, or medium-duty vehicles from 6001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 1, Section 1900, incorporated herein by

~~reference will proceed in accordance with the EPA NLEV regulations at 40 C.F.R. Section 86.1707.~~

~~3 DE Reg. 532 (10/01/99)~~

~~12 DE Reg. 347 (09/01/08)~~

## 1140 – DELAWARE LOW EMISSION VEHICLE PROGRAM

### 1.0 Purpose

- 1.1. The provisions of this regulation establish in Delaware a LEV program, which incorporates the requirements of the California LEV program.
- 1.2. The LEV program shall apply to all **[new]** model year 2014~~[3]~~ and subsequent motor vehicles that are passenger cars~~[,]~~ **and** light-duty trucks~~[, and medium-duty vehicles]~~ subject to the California LEV program and delivered for sale in Delaware~~[. on or after January 1, 2013.]~~

### 2.0 Applicability

- 2.1. Except as set forth in ~~[2.2 and]~~ 2.3 of this regulation, ~~[on or after January 1, 2013,]~~ no person shall deliver for sale, offer for sale, sell, deliver, purchase, rent, acquire, receive, or register a **[new]** model year 2014~~[3]~~ or subsequent model-year passenger car~~[,]~~ **or** light-duty truck~~[, or medium-duty vehicle]~~ within Delaware unless the vehicle has been certified by CARB and has received a CARB Executive Order.
- ~~2.2. [Prior to January 1, 2014, [new] model year 2013 vehicles that do not meet the requirements of 2.1 of this regulation, but were delivered for sale in Delaware on or before January 1, 2013, and have a certificate of conformity issued pursuant to the Clean Air Act, may be sold, offered for sale, purchased, acquired or received in Delaware.]~~
- 2.3. The prohibitions contained in 2.1 of this regulation shall not apply to ~~passenger cars and light-duty trucks [vehicles]~~ that are:
  - 2.3.1. Held for daily lease or rental to the general public or engaged in interstate commerce, which are registered and principally operated outside of Delaware;
  - 2.3.2. Test vehicles and emergency vehicles;
  - 2.3.3. Acquired by a resident of Delaware for the purposes of replacing a vehicle registered to such resident, which vehicle was damaged, or became inoperative beyond reasonable repair, or was stolen while out of Delaware; provided that such replacement vehicle is acquired outside of Delaware at the time the previously registered vehicle was either damaged or became inoperative beyond reasonable repair or was stolen;
  - 2.3.4. Transferred by inheritance;
  - 2.3.5. Transferred by court decree;
  - 2.3.6. Issued a certificate of conformity pursuant to the Clean Air Act and originally registered in another state by a resident of that state who subsequently establishes residence in Delaware;
  - 2.3.7. Sold directly from one dealer to another dealer;
  - 2.3.8. Sold for the purpose of being wrecked or dismantled;
  - 2.3.9. Sold exclusively for off-highway use; or
  - 2.3.10. Sold for registration outside of Delaware.
  - 2.3.11. Military tactical vehicles.
- 2.4. **[2.2]** For the purposes of this regulation, it is presumed that the equitable or legal title to any motor vehicle with an odometer reading of 7,500 miles or more has been transferred to an ultimate purchaser and that the equitable or legal title to any motor vehicle with an odometer reading of fewer than 7,500 miles has not been transferred to an ultimate purchaser.

### 3.0 Definitions

The following words and terms, when used in this regulation, shall have the following meanings unless the context clearly indicates otherwise.

**“Air contaminant emission control system” means** the equipment designed for installation on a motor vehicle or motor vehicle engine for the purpose of reducing the air contaminants emitted from the motor vehicle or motor vehicle engine or a system or engine modifications on a motor vehicle which causes a reduction of air contaminants emitted from the motor vehicle engine, including but not limited to exhaust control systems, fuel evaporative control systems and crankcase ventilating systems.

**“Business” means** an occupation, profession or trade; a person or partnership or corporation engaged in commerce, manufacturing, or a service; a profit-seeking enterprise or concern.

**“California-certified (vehicle)” means** a vehicle having a valid Executive Order stating that the vehicle meets all applicable requirements under applicable sections of Title 13, CCR and approved for sale in California by CARB.

**“California Air Resources Board or CARB” means** the agency or its successor established and empowered to regulate sources of air pollution in the state of California, including motor vehicles, pursuant to Section 39003, California Health & Safety Code, as amended or supplemented.

**“California low emission vehicle program” means** the low emission vehicle program being implemented in the state of California, pursuant to the provisions of the Clean Air Act and the California Code of Regulations.

**“CCR” means** the California Code of Regulations.

**“Certificate of conformity” means** that document issued by California Air Resources Board, or the United States Environmental Protection Agency.

**“Clean Air Act or CAA” means** the Federal Clean Air Act, 42 U.S.C. §§ 7401 et seq., as amended and supplemented.

**“Dealer” means** any person actively engaged in the business of offering to sell, soliciting or advertising the sale, buying, transferring, leasing, selling or exchanging new motor vehicles and who has an established place of business.

**“Delivered for sale” means** vehicles that have received a bill of lading for sale in Delaware and are shipped, or are in the process of being shipped to a dealer in Delaware.

**“Department” means** the Delaware Department of Natural Resources and Environmental Control.

**“Emergency vehicle” means** any publicly owned vehicle operated by a peace officer in the performance of their duties, any authorized emergency vehicle used for fighting fires or responding to emergency fire calls and any publicly owned authorized emergency vehicle used by an emergency medical technician or –paramedic or any ambulance used by a private entity under contract with a public agency.

**“Emission standards” mean** specified limitations on the discharge of air contaminants into the atmosphere.

**“Engine family” means** the basic classification unit comprised of the engine and drive train configuration selected by a manufacturer and used for the purpose of certification testing.

**“Executive Order” means** a document issued by CARB certifying that a specified test group or model year vehicle has met all applicable requirements adopted by CARB pursuant to the applicable sections of Title 13, CCR for the control of specified air contaminants from motor vehicles and is thereby certified for sale in California.

**“Gross vehicle weight rating or GVWR” means** the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

**“Intermediate volume manufacturer” means** a manufacturer that has been designated by CARB as an intermediate volume manufacturer as defined at Title 13, CCR, Section 1900.

**“Large volume manufacturer” means** a manufacturer that has been designated by the CARB as a large volume manufacturer as defined at Title 13, CCR, Section 1900.

**“Light-duty truck” means** any 2000 and subsequent model year motor vehicle certified to the standards in Title 13, CCR, Section 1961(a)(1), rated at 8,500 pounds gross vehicle weight or less, and any other motor vehicle rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

**“Light-duty truck-1 or LDT-1” means** a light-duty truck with a loaded vehicle weight of 3,750 pounds or less.

**“~~[LDT-2 or]~~ Light-duty truck-2 [or LDT-2]” means** a light-duty truck with a loaded vehicle weight of greater than 3,750 pounds and a gross vehicle weight of less than or equal to 8,500 pounds and includes medium-duty passenger vehicles when determining compliance with the greenhouse gas emission standards of this regulation.

**“Loaded vehicle weight” means** the vehicle curb weight plus 300 pounds.

**“Mail out” means** a widely distributed general correspondence issued by CARB whenever said board needs information from the public, or when it wishes to inform the public of new information.

**“Manufacturer” means** any small, intermediate or large volume vehicle manufacturer as defined at Title 13, CCR, Section 1900.

**“Medium-duty [passenger] vehicle” means** medium-duty [passenger] vehicle as defined at Title 13, CCR, Section 1900.

**“Military tactical vehicle” means** all land combat and transportation vehicles, excluding rail-based, which are designed for or are in use by any of the United States armed forces.

**“Model year” means** model year as defined at 40 CFR 85.2302 and determined in accordance with the provisions of 40 CFR 85.2301 through 85.2304, as supplemented or amended, and incorporated herein by reference.

**“Motor vehicle or vehicle” means** every device in, upon, or by which a person or property is or may be transported otherwise than by muscular power, excepting such devices as run only upon rails or tracks and motorized bicycles.

**“Motor vehicle engine” means** an engine that is used to propel a motor vehicle.

**“New motor vehicle engine” means** a new engine in a motor vehicle.

**“New vehicle” means** any vehicle with 7,500 miles or fewer on its odometer.

**“Non-methane organic gas or NMOG” means** the total mass of oxygenated and non-oxygenated hydrocarbon emissions.

**“Passenger car” means** any motor vehicle designed primarily for transportation of individuals and having a design capacity of 12 individuals or fewer.

**“Person” means** an individual, public or private corporation, company, partnership, firm, association, society or joint stock company, municipality, state, interstate body, ~~the United States~~, or any Board, commission, employee, agent, officer or political subdivision of a state, an interstate body or the United States.

**“Placed in service” means** having been sold to an ultimate purchaser and not to a dealer or other distribution chain entity, and having been individually registered for on-road use by the Delaware Division of Motor Vehicles.

**“Sale or sell” means** the transfer of equitable or legal title to a motor vehicle or motor vehicle engine to the ultimate purchaser.

**“Secretary” means** the Secretary of the Department.

**“State” means** the State of Delaware, unless otherwise specified.

**“Test group” means** a grouping of vehicles as defined by 40 CFR 86.1827-01, as supplemented or amended, and incorporated herein by reference.

**“Test vehicle” means** an experimental or prototype motor vehicle that appears to have very low emission characteristics, or a used motor vehicle within which an experimental motor vehicle pollution control device is installed, and which has also received a test vehicle or fleet permit from CARB.

**“Ultimate purchaser” means**, with respect to any new motor vehicle or new motor vehicle engine, the first person whom in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

**“USEPA” means** the United States Environmental Protection Agency.

**“Vehicle identification number or VIN” means** a unique, 17 digit, alphanumeric code that the vehicle manufacturer assigns to a vehicle.

#### 4.0 Emission certification standards

Each model year and subsequent motor vehicle subject to 2.1 of this regulation shall be California-certified.

#### 5.0 NMOG fleet-wide average exhaust emission requirement

5.1. A manufacturer of model year 2014~~[3]~~ or later passenger cars~~[, or]~~ light-duty trucks~~[, or medium-duty vehicles]~~ delivered for sale in Delaware ~~[on or after January 1, 2013]~~, shall demonstrate compliance with the NMOG fleet-wide average exhaust emission requirement of Title 13, CCR, Section 1961, which average shall be based on the number of the manufacturer's vehicles subject to 2.1 of this regulation.

5.2. A manufacturer may accrue NMOG credits and debits and use them in accordance with Title 13, CCR, Section 1961(c), except that the formula for accruing credits at Title 13, CCR, Section 1961(c) shall be based upon the number of vehicles the manufacturer produces and delivers for

sale in Delaware in accordance with this regulation.

## 6.0 Vehicle Testing

- 6.1. Each new vehicle model subject to 2.1 of this regulation shall satisfy the motor vehicle emission requirements of Title 13, CCR, Sections: 1960.1, 1961, 1962, 1962.1, 1965, 1968.1, 1968.2, 1968.5, 1976, 1978, 2037, 2038, 2062, 2101, 2111, and 2235. A manufacturer shall demonstrate compliance by presenting to the Department upon request copies of the applicable Executive Order.
- 6.2. Each manufacturer of a vehicle subject to 2.1 of this regulation shall conduct Inspection Testing and Quality Audit Testing in accordance with Title 13, CCR, Section 2062, and shall provide the test results to the Department upon request. A manufacturer shall demonstrate compliance by presenting to the Department, upon request, copies of the test results and the determination and findings made by CARB.
- 6.3. Each new vehicle subject to 2.1 of this regulation, prior to being offered for sale in Delaware, shall meet the motor vehicle emission requirements of Title 13, CCR, Section 1961, as determined by compliance testing, conducted by CARB in accordance with Title 13, CCR, Sections 2101 through 2110, 2150, and 2151. A manufacturer shall demonstrate compliance by presenting to the Department, upon request, copies of the test results and the determination and findings made by CARB.
- 6.4. For the purposes of detection and repair of vehicles subject to this ~~[subchapter regulation]~~ failing to meet the motor vehicle emission requirements of Title 13, CCR, Section 1961 the Department may conduct, after consultation with CARB, In-Use Vehicle Enforcement Testing in accordance with the protocol and testing procedures in Title 13, CCR, Section 2140. A manufacturer shall demonstrate compliance by presenting to the Department, upon request, copies of the test results and the determination and findings made by CARB.

## 7.0 Warranty

- 7.1. Each manufacturer of a vehicle subject to 2.1 of this regulation shall warrant to the ultimate purchaser and each subsequent purchaser that the vehicle shall comply over its period of warranty coverage with all requirements of Title 13, CCR, Sections 2035 through 2038, 2040, and 2041.
- 7.2. Each manufacturer of a vehicle subject to 2.1 **[of this regulation]** shall submit to the Department, upon request, a Failure of Emission-Related Components report as defined at Title 13, CCR, Section 2144.
- 7.3. For purposes of compliance with 7.2 of this regulation, a manufacturer may submit copies of the Failure of Emission-Related Components report that are submitted to CARB.

## 8.0 Reporting and Record-Keeping Requirements

- 8.1. Beginning with the 2014~~[3]~~ model year, each manufacturer of a vehicle subject to 2.1 of this regulation shall submit annually to the Department, no later than March 1 following the close of the model year, a report documenting total deliveries for sale in Delaware of vehicles in each test group during that model year. ~~[For the 2013 model year, the report shall separately show deliveries for sale prior to January 1, 2013 and on and after January 1, 2013.]~~
- 8.2. Beginning with the 2014~~[3]~~ model year, each manufacturer of a vehicle subject to 2.1 **[of this regulation]** shall submit annually to the Department, by no later than March 1 following the close of the model year, a report, prepared according to Title 13, CCR, Section 1961, calculating the NMOG fleet-wide average exhaust emission for the model year just ended for vehicles delivered for sale in Delaware. ~~[For the 2013 model year, the report shall separately show deliveries for sale prior to January 1, 2013 and on and after January 1, 2013.]~~
- 8.3. Beginning with the 2014~~[3]~~ model year, each manufacturer of a vehicle exempted under 2.3.7 of this regulation must keep records on all inter or intra-dealer trades of new 2014~~[3]~~ or subsequent model-year ~~[passenger car or light-duty truck vehicles]~~ that have not been certified by CARB and therefore have not received a CARB Executive Order, and these records shall be made readily available to the Department upon request.

## 9.0 Enforcement

- 9.1. Records to support any application, notice, report or amendment submitted to the Department under this ~~[subchapter regulation]~~ shall be maintained for a period of no less than five years after submitting the information to the Department, and shall be made readily available to the

Department upon request.

- 9.2. Failure to comply with any of the obligations or requirements of this **[subchapter regulation]** shall subject the violator to an enforcement action pursuant to the provisions of 7 Del. C. Ch 60.
- 9.3. Any order or enforcement action taken by CARB to correct noncompliance with any section of Title 13, CCR, which action results in the recall of any vehicle pursuant to Title 13, CCR, sections 2109 through 2135, shall be applicable in Delaware, except where the manufacturer demonstrates to the Department's satisfaction within 30 days of issuance of the CARB action that the action is not applicable to vehicles subject to this regulation.
- 9.4. Any emission-related recall campaign, voluntary or otherwise, initiated by any manufacturer pursuant to Title 13, CCR, Sections 2113 through 2121, shall extend to all similar vehicles subject to 2.1 of this regulation, except where the manufacturer demonstrates to the Department's satisfaction within 30 days of CARB approval of the campaign that the campaign is not applicable to vehicles subject to 2.1 of this regulation.

## 10.0 Incorporation by Reference

- 10.1. Unless specifically excluded by this **[subchapter regulation]**, when a provision of the CCR is incorporated by reference, all notes, comments, appendices, diagrams, tables, forms, figures, and publications are also incorporated by reference.
- 10.2. Prospective incorporation by reference means the ongoing process, whereby all provisions of regulations incorporated into this **[subchapter regulation]** from the CCR, as set forth in Table 40-1, are continually automatically updated in order to maintain consistency with the most current CCR. Thus, any supplements, amendments, and any other changes including, without limitation, repeals or stays that affect the meaning or operational status of a California rule, brought about by either judicial or administrative action and adopted or otherwise noticed by the state of California, shall be paralleled by a similar change to the Delaware regulation so that the Delaware regulation will have the same meaning and status as its California counterpart.
- 10.3. Provisions of the CCR that are excluded from incorporation by reference in **[these rules this regulation]** are excluded in their entirety, unless otherwise specified. If there is a cross-reference to a California citation that was not specifically incorporated, the cross-referenced citation is not incorporated by virtue of the cross-reference. Provisions that have been excluded from incorporation by reference are also excluded from the process of prospective incorporation by reference.
- 10.4. Nothing in these provisions incorporated by reference from the CCR shall affect the Department's authority to enforce statutes, rules, permits or orders administered or issued by the Secretary.
- 10.5. The following documents and sources are incorporated by reference within this regulation:

**Table 40-1**  
**California Code of Regulations (CCR)**  
**Title 13**  
**Provisions Incorporated by Reference**

Title 13, CCR	Title
<b>Chapter 1</b> Motor Vehicle Pollution Control Devices	
<b>Article 1</b> General Provisions	
Section 1900	Definitions
<b>Article 2</b> Approval of Motor Vehicle Pollution Control Devices (New Vehicles)	
Section 1956.8(g) and (h)	Exhaust Emission Standards and Test Procedures – 1985 and Subsequent Model Heavy Duty Engines and Vehicles
Section 1960.1	Exhaust Emission Standards and Test Procedures – 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles
Section 1961	Exhaust Emission Standards and Test Procedures – 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles
Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures – 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles

Section 1965	Emission Control and Smog Index Labels – 1979 and Subsequent Model Year Vehicles
Section 1968.1	Malfunction and Diagnostic System Requirements – 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles
Section 1968.2	Malfunction and Diagnostic System Requirements – 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions
<b>Article 6</b> Emission Control System Warranty	
Section 2035	Purpose, Applicability and Definitions
Section 2036	Defects Warranty Requirements for 1979 through 1989 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles; 1979 and Subsequent Model Year Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles
Section 2039	Emission Control System Warranty Statement
Section 2040	Vehicle Owner Obligations
Section 2041	Mediation; Finding of Warrantable Condition
Section 2046	Defective Catalyst
<b>Chapter 2</b> Enforcement of Vehicle Emission Standards and Enforcement Testing	
<b>Article 1</b> Assembly Line Testing	
Section 2062	Assembly-line Test Procedures 1998 and Subsequent Model years
<b>Article 2</b> Enforcement of New and In-use Vehicle Standards	
Section 2101	Compliance Testing and Inspection - New Vehicle Selection, Evaluation and Enforcement Action
Section 2109	New Vehicle Recall Provisions
Section 2110	Remedial Action for Assembly-Line Quality Audit Testing of Less than a Full Calendar Quarter of Production Prior to the 2001 Model Year
<b>Article 2.1</b> Procedures for In-Use Vehicle Voluntary and Influenced Recalls	
Section 2111	Applicability
Section 2112	Definitions
Appendix A to Article 2.1	
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls
Section 2114	Voluntary and Influenced Recall Plans
Section 2115	Eligibility for Repair
Section 2127	Notification of Owners
Section 2138	Restorative Maintenance
Section 2128	Repair Label
Section 2129	Proof of Correction Certificate
Section 2130	Capture Rates and Alternative Measures
Section 2131	Preliminary Tests
Section 2132	Communication with Repair Personnel
Section 2133	Record keeping and Reporting Requirements
Section 2135	Extension of Time
<b>Article 2.3</b> In-Use Vehicle Enforcement Test Procedures	
Section 2136	General Provisions

Section 2137	Vehicle Selection
Section 2139	Testing
Section 2140	Notification of In-Use Results
<b>Article 2.4</b> Procedures for Reporting Failure of Emission-Related Components	
Section 2141	General Provisions
Section 2142	Alternative Procedures
Section 2143	Failure Levels Triggering Recall
Section 2144	Emission Warranty Information Report
Section 2145	Field Information Report
Section 2146	Emissions Information Report
Section 2147	Demonstration of Compliance with Emission Standards
Section 2148	Evaluation of Need for Recall
Section 2149	Notification of Subsequent Action
<b>Chapter 3</b> Surveillance Testing	
Section 2150	Assembly-Line Surveillance
Section 2151	New Motor Vehicle Dealer Surveillance
<b>Chapter 4.4</b> Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks	
Section 2235	Requirements

## 11.0 Document Availability

Any of the documents incorporated by reference may be obtained either from the Department or from the State of California Office of Administrative Law, 300 Capitol Mall, Suite 1250 Sacramento, California 95814-4339 or at the California Office of Administrative Law website at: <http://www.oal.ca.gov/>

## 12.0 Severability

Each section of this subchapter is severable. In the event that any section, subsection or division is held invalid in a court of law, the remainder of this subchapter shall continue in full force and effect.

## PROPOSED REGULATION

### **1140 Delaware's National Low Emission Vehicle (NLEV) Regulation**

09/11/1999

#### **1.0 Applicability**

~~The environmental benefits of this regulation will be realized in all counties in the State of Delaware.~~

09/11/1999

#### **2.0 Definitions**

~~The following terms, when used in this regulation, shall have the following meanings:~~

~~"NLEV Program" or "National Low Emission Vehicle Program" means a federally enforceable, voluntary nationwide clean car program designed to reduce smog and other pollution from new motor vehicles and that would achieve emission reductions from new motor vehicles in the Ozone Transport Region equivalent to or greater than would be achieved by the adoption of the CAL-LEV (California Low Emission Vehicle) Program by all the OTC states.~~

09/11/1999

#### **3.0 Program Participation**

~~3.1 For the duration of Delaware's participation in NLEV, manufacturers may comply with NLEV or equally stringent mandatory federal standards in lieu of compliance with any program, including the provisions of this subchapter and including any mandates for sales of ZEVs (zero emission vehicles), adopted by the State pursuant to the authority provided in Section 177 of the Clean Air Act (CAA), 42 U.S.C. Section 7401 et seq., applicable to passenger cars, light-duty trucks up through 6,000 pounds GVWR (gross vehicle weight rating), or medium-duty vehicles from 6,001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 1, Section 1900, incorporated herein by reference.~~

~~3.2 Delaware's participation in NLEV extends until the commencement of model year 2006, except as provided in 40 C.F.R. Section 86.1707. If, no later than December 15, 2000, the EPA does not adopt standards at least as stringent as the NLEV standards provided in 40 C.F.R. Part 86, subpart R, that apply to new motor vehicles in model year 2004, 2005 or 2006, the State's participation in NLEV extends only until the commencement of model year 2004, except as provided in 40 C.F.R. Section 86.1707.~~

~~3.3 If a covered manufacturer, as defined at 40 C.F.R. 86.1702, opts out of the NLEV program pursuant to the EPA NLEV regulations at 40 C.F.R. Section 86.1707, the transition from NLEV requirements to any state Clean Air Act Section 177 Program applicable to passenger cars, light-duty trucks up through 6000 pounds GVWR, or medium-duty vehicles from 6001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 1, Section 1900, incorporated herein by~~

~~reference will proceed in accordance with the EPA NLEV regulations at 40 C.F.R. Section 86.1707.~~

~~3 DE Reg. 532 (10/01/99)~~

~~12 DE Reg. 347 (09/01/08)~~

## 1140 – DELAWARE LOW EMISSION VEHICLE PROGRAM

### 1.0 Purpose

- 1.1. The provisions of this regulation establish in Delaware a LEV program, which incorporates the requirements of the California LEV program.
- 1.2. The LEV program shall apply to all new model year 2014 and subsequent motor vehicles that are passenger cars, light-duty trucks, and medium-duty vehicles subject to the California LEV program and delivered for sale in Delaware.

### 2.0 Applicability

- 2.1. Except as set forth in 2.3 of this regulation, no person shall deliver for sale, offer for sale, sell, deliver, purchase, rent, acquire, receive, or register a new model year 2014 or subsequent model-year passenger car, light-duty truck, or medium duty vehicle within Delaware unless the vehicle has been certified by CARB and has received a CARB Executive Order.
- 2.2. For the purposes of this regulation, it is presumed that the equitable or legal title to any motor vehicle with an odometer reading of 7,500 miles or more has been transferred to an ultimate purchaser and that the equitable or legal title to any motor vehicle with an odometer reading of fewer than 7,500 miles has not been transferred to an ultimate purchaser.
- 2.3. The prohibitions contained in 2.1 of this regulation shall not apply to vehicles that are:
  - 2.3.1. Held for daily lease or rental to the general public or engaged in interstate commerce, which are registered and principally operated outside of Delaware;
  - 2.3.2. Test vehicles and emergency vehicles;
  - 2.3.3. Acquired by a resident of Delaware for the purposes of replacing a vehicle registered to such resident, which vehicle was damaged, or became inoperative beyond reasonable repair, or was stolen while out of Delaware; provided that such replacement vehicle is acquired outside of Delaware at the time the previously registered vehicle was either damaged or became inoperative beyond reasonable repair or was stolen;
  - 2.3.4. Transferred by inheritance;
  - 2.3.5. Transferred by court decree;
  - 2.3.6. Issued a certificate of conformity pursuant to the Clean Air Act and originally registered in another state by a resident of that state who subsequently establishes residence in Delaware;
  - 2.3.7. Sold directly from one dealer to another dealer;
  - 2.3.8. Sold for the purpose of being wrecked or dismantled;
  - 2.3.9. Sold exclusively for off-highway use; or
  - 2.3.10. Sold for registration outside of Delaware.
  - 2.3.11. Military tactical vehicles.

### 3.0 Definitions

The following words and terms, when used in this regulation, shall have the following meanings unless the context clearly indicates otherwise.

**“Air contaminant emission control system” means** the equipment designed for installation on a motor vehicle or motor vehicle engine for the purpose of reducing the air contaminants emitted from the motor vehicle or motor vehicle engine or a system or engine modifications on a motor vehicle which causes a reduction of air contaminants emitted from the motor vehicle engine, including but not limited to exhaust control systems, fuel evaporative control systems and crankcase ventilating systems.

**“Business” means** an occupation, profession or trade; a person or partnership or corporation engaged in commerce, manufacturing, or a service; a profit-seeking enterprise or concern.

**“California-certified (vehicle)” means** a vehicle having a valid Executive Order stating that the vehicle meets all applicable requirements under applicable sections of Title 13, CCR and approved for sale in California by CARB.

**“California Air Resources Board or CARB” means** the agency or its successor established and empowered to regulate sources of air pollution in the state of California, including motor vehicles, pursuant to Section 39003, California Health & Safety Code, as amended or supplemented.

**“California low emission vehicle program” means** the low emission vehicle program being implemented in the state of California, pursuant to the provisions of the Clean Air Act and the California Code of Regulations.

**“CCR” means** the California Code of Regulations.

**“Certificate of conformity” means** that document issued by California Air Resources Board, or the United States Environmental Protection Agency.

**“Clean Air Act or CAA” means** the Federal Clean Air Act, 42 U.S.C. §§ 7401 et seq., as amended and supplemented.

**“Dealer” means** any person actively engaged in the business of offering to sell, soliciting or advertising the sale, buying, transferring, leasing, selling or exchanging new motor vehicles and who has an established place of business.

**“Delivered for sale” means** vehicles that have received a bill of lading for sale in Delaware and are shipped, or are in the process of being shipped to a dealer in Delaware.

**“Department” means** the Delaware Department of Natural Resources and Environmental Control.

**“Emergency vehicle” means** any publicly owned vehicle operated by a peace officer in the performance of their duties, any authorized emergency vehicle used for fighting fires or responding to emergency fire calls and any publicly owned authorized emergency vehicle used by an emergency medical technician or paramedic or any ambulance used by a private entity under contract with a public agency.

**“Emission standards” mean** specified limitations on the discharge of air contaminants into the atmosphere.

**“Engine family” means** the basic classification unit comprised of the engine and drive train configuration selected by a manufacturer and used for the purpose of certification testing.

**“Executive Order” means** a document issued by CARB certifying that a specified test group or model year vehicle has met all applicable requirements adopted by CARB pursuant to the applicable sections of Title 13, CCR for the control of specified air contaminants from motor vehicles and is thereby certified for sale in California.

**“Gross vehicle weight rating or GVWR” means** the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

**“Intermediate volume manufacturer” means** a manufacturer that has been designated by CARB as an intermediate volume manufacturer as defined at Title 13, CCR, Section 1900.

**“Large volume manufacturer” means** a manufacturer that has been designated by the CARB as a large volume manufacturer as defined at Title 13, CCR, Section 1900.

**“Light-duty truck” means** any 2000 and subsequent model year motor vehicle certified to the standards in Title 13, CCR, Section 1961(a)(1), rated at 8,500 pounds gross vehicle weight or less, and any other motor vehicle rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

**“Light-duty truck-1 or LDT-1” means** a light-duty truck with a loaded vehicle weight of 3,750 pounds or less.

**“Light-duty truck-2 or LDT-2” means** a light-duty truck with a loaded vehicle weight of greater than 3,750 pounds and a gross vehicle weight of less than or equal to 8,500 pounds and includes medium-duty passenger vehicles when determining compliance with the greenhouse gas emission standards of this regulation.

**“Loaded vehicle weight” means** the vehicle curb weight plus 300 pounds.

**“Mail out” means** a widely distributed general correspondence issued by CARB whenever said board needs information from the public, or when it wishes to inform the public of new information.

**“Manufacturer” means** any small, intermediate or large volume vehicle manufacturer as defined at Title 13, CCR, Section 1900.

**“Medium-duty vehicle” means** medium-duty vehicle as defined at Title 13, CCR, Section 1900.

**“Military tactical vehicle” means** all land combat and transportation vehicles, excluding rail-based, which are designed for or are in use by any of the United States armed forces.

**“Model year” means** model year as defined at 40 CFR 85.2302 and determined in accordance with the provisions of 40 CFR 85.2301 through 85.2304, as supplemented or amended, and incorporated herein by reference.

**“Motor vehicle or vehicle” means** every device in, upon, or by which a person or property is or may be transported otherwise than by muscular power, excepting such devices as run only upon rails or tracks and motorized bicycles.

**“Motor vehicle engine” means** an engine that is used to propel a motor vehicle.

**“New motor vehicle engine” means** a new engine in a motor vehicle.

**“New vehicle” means** any vehicle with 7,500 miles or fewer on its odometer.

**“Non-methane organic gas or NMOG” means** the total mass of oxygenated and non-oxygenated hydrocarbon emissions.

**“Passenger car” means** any motor vehicle designed primarily for transportation of individuals and having a design capacity of 12 individuals or fewer.

**“Person” means** an individual, public or private corporation, company, partnership, firm, association, society or joint stock company, municipality, state, interstate body, or any Board, commission, employee, agent, officer or political subdivision of a state, an interstate body or the United States.

**“Placed in service” means** having been sold to an ultimate purchaser and not to a dealer or other distribution chain entity, and having been individually registered for on-road use by the Delaware Division of Motor Vehicles.

**“Sale or sell” means** the transfer of equitable or legal title to a motor vehicle or motor vehicle engine to the ultimate purchaser.

**“Secretary” means** the Secretary of the Department.

**“State” means** the State of Delaware, unless otherwise specified.

**“Test group” means** a grouping of vehicles as defined by 40 CFR 86.1827-01, as supplemented or amended, and incorporated herein by reference.

**“Test vehicle” means** an experimental or prototype motor vehicle that appears to have very low emission characteristics, or a used motor vehicle within which an experimental motor vehicle pollution control device is installed, and which has also received a test vehicle or fleet permit from CARB.

**“Ultimate purchaser” means**, with respect to any new motor vehicle or new motor vehicle engine, the first person whom in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

**“USEPA” means** the United States Environmental Protection Agency.

**“Vehicle identification number or VIN” means** a unique, 17 digit, alphanumeric code that the vehicle manufacturer assigns to a vehicle.

#### **4.0 Emission certification standards**

Each model year and subsequent motor vehicle subject to 2.1 of this regulation shall be California-certified.

#### **5.0 NMOG fleet-wide average exhaust emission requirement**

5.1. A manufacturer of model year 2014 or later passenger cars, light-duty trucks, or medium-duty vehicles delivered for sale in Delaware, shall demonstrate compliance with the NMOG fleet-wide average exhaust emission requirement of Title 13, CCR, Section 1961, which average shall be based on the number of the manufacturer's vehicles subject to 2.1 of this regulation.

5.2. A manufacturer may accrue NMOG credits and debits and use them in accordance with Title 13, CCR, Section 1961(c), except that the formula for accruing credits at Title 13, CCR, Section 1961(c) shall be based upon the number of vehicles the manufacturer produces and delivers for sale in Delaware in accordance with this regulation.

#### **6.0 Vehicle Testing**

6.1. Each new vehicle model subject to 2.1 of this regulation shall satisfy the motor vehicle emission requirements of Title 13, CCR, Sections: 1960.1, 1961, 1962, 1962.1, 1965, 1968.1, 1968.2, 1968.5, 1976, 1978, 2037, 2038, 2062, 2101, 2111, and 2235. A manufacturer shall demonstrate compliance by presenting to the Department upon request copies of the applicable Executive Order.

6.2. Each manufacturer of a vehicle subject to 2.1 of this regulation shall conduct Inspection Testing and Quality Audit Testing in accordance with Title 13, CCR, Section 2062, and shall provide the test results to the Department upon request. A manufacturer shall demonstrate compliance by

presenting to the Department, upon request, copies of the test results and the determination and findings made by CARB.

- 6.3. Each new vehicle subject to 2.1 of this regulation, prior to being offered for sale in Delaware, shall meet the motor vehicle emission requirements of Title 13, CCR, Section 1961, as determined by compliance testing, conducted by CARB in accordance with Title 13, CCR, Sections 2101 through 2110, 2150, and 2151. A manufacturer shall demonstrate compliance by presenting to the Department, upon request, copies of the test results and the determination and findings made by CARB.
- 6.4. For the purposes of detection and repair of vehicles subject to this regulation failing to meet the motor vehicle emission requirements of Title 13, CCR, Section 1961 the Department may conduct, after consultation with CARB, In-Use Vehicle Enforcement Testing in accordance with the protocol and testing procedures in Title 13, CCR, Section 2140. A manufacturer shall demonstrate compliance by presenting to the Department, upon request, copies of the test results and the determination and findings made by CARB.

## **7.0 Warranty**

- 7.1. Each manufacturer of a vehicle subject to 2.1 of this regulation shall warrant to the ultimate purchaser and each subsequent purchaser that the vehicle shall comply over its period of warranty coverage with all requirements of Title 13, CCR, Sections 2035 through 2038, 2040, and 2041.
- 7.2. Each manufacturer of a vehicle subject to 2.1 of this regulation shall submit to the Department, upon request, a Failure of Emission-Related Components report as defined at Title 13, CCR, Section 2144.
- 7.3. For purposes of compliance with 7.2 of this regulation, a manufacturer may submit copies of the Failure of Emission-Related Components report that are submitted to CARB.

## **8.0 Reporting and Record-Keeping Requirements**

- 8.1. Beginning with the 2014 model year, each manufacturer of a vehicle subject to 2.1 of this regulation shall submit annually to the Department, no later than March 1 following the close of the model year, a report documenting total deliveries for sale in Delaware of vehicles in each test group during that model year.
- 8.2. Beginning with the 2014 model year, each manufacturer of a vehicle subject to 2.1 of this regulation shall submit annually to the Department, by no later than March 1 following the close of the model year, a report, prepared according to Title 13, CCR, Section 1961, calculating the NMOG fleet-wide average exhaust emission for the model year just ended for vehicles delivered for sale in Delaware.
- 8.3. Beginning with the 2014 model year, each manufacturer of a vehicle exempted under 2.3.7 of this regulation must keep records on all inter or intra-dealer trades of new 2014 or subsequent model-year vehicles that have not been certified by CARB and therefore have not received a CARB Executive Order, and these records shall be made readily available to the Department upon request.

## **9.0 Enforcement**

- 9.1. Records to support any application, notice, report or amendment submitted to the Department under this regulation shall be maintained for a period of no less than five years after submitting the information to the Department, and shall be made readily available to the Department upon request.
- 9.2. Failure to comply with any of the obligations or requirements of this regulation shall subject the violator to an enforcement action pursuant to the provisions of 7 Del. C. Ch 60.
- 9.3. Any order or enforcement action taken by CARB to correct noncompliance with any section of Title 13, CCR, which action results in the recall of any vehicle pursuant to Title 13, CCR, sections 2109 through 2135, shall be applicable in Delaware, except where the manufacturer demonstrates to the Department's satisfaction within 30 days of issuance of the CARB action that the action is not applicable to vehicles subject to this regulation.
- 9.4. Any emission-related recall campaign, voluntary or otherwise, initiated by any manufacturer pursuant to Title 13, CCR, Sections 2113 through 2121, shall extend to all similar vehicles subject to 2.1 of this regulation, except where the manufacturer demonstrates to the Department's satisfaction within 30 days of CARB approval of the campaign that the campaign is not applicable to vehicles subject to 2.1 of this regulation.

## 10.0 Incorporation by Reference

- 10.1. Unless specifically excluded by this regulation, when a provision of the CCR is incorporated by reference, all notes, comments, appendices, diagrams, tables, forms, figures, and publications are also incorporated by reference.
- 10.2. Prospective incorporation by reference means the ongoing process, whereby all provisions of regulations incorporated into this regulation from the CCR, as set forth in Table 40-1 are continually automatically updated in order to maintain consistency with the most current CCR. Thus, any supplements, amendments, and any other changes including, without limitation, repeals or stays that affect the meaning or operational status of a California rule, brought about by either judicial or administrative action and adopted or otherwise noticed by the state of California, shall be paralleled by a similar change to the Delaware regulation so that the Delaware regulation will have the same meaning and status as its California counterpart.
- 10.3. Provisions of the CCR that are excluded from incorporation by reference in this regulation are excluded in their entirety, unless otherwise specified. If there is a cross-reference to a California citation that was not specifically incorporated, the cross-referenced citation is not incorporated by virtue of the cross-reference. Provisions that have been excluded from incorporation by reference are also excluded from the process of prospective incorporation by reference.
- 10.4. Nothing in these provisions incorporated by reference from the CCR shall affect the Department's authority to enforce statutes, rules, permits, or orders administered or issued by the Secretary.
- 10.5. The following documents and sources are incorporated by reference within this regulation:

**Table 40-1**  
**California Code of Regulations (CCR)**  
**Title 13**  
**Provisions Incorporated by Reference**

Title 13, CCR	Title
<b>Chapter 1</b> Motor Vehicle Pollution Control Devices	
<b>Article 1</b> General Provisions	
Section 1900	Definitions
<b>Article 2</b> Approval of Motor Vehicle Pollution Control Devices (New Vehicles)	
Section 1956.8(g) and (h)	Exhaust Emission Standards and Test Procedures – 1985 and Subsequent Model Heavy Duty Engines and Vehicles
Section 1960.1	Exhaust Emission Standards and Test Procedures – 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles
Section 1961	Exhaust Emission Standards and Test Procedures – 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles
Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures – 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles
Section 1965	Emission Control and Smog Index Labels – 1979 and Subsequent Model Year Vehicles
Section 1968.1	Malfunction and Diagnostic System Requirements – 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles
Section 1968.2	Malfunction and Diagnostic System Requirements – 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions
<b>Article 6</b> Emission Control System Warranty	

Section 2035	Purpose, Applicability and Definitions
Section 2036	Defects Warranty Requirements for 1979 through 1989 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles; 1979 and Subsequent Model Year Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles
Section 2039	Emission Control System Warranty Statement
Section 2040	Vehicle Owner Obligations
Section 2041	Mediation; Finding of Warrantable Condition
Section 2046	Defective Catalyst
<b>Chapter 2</b> Enforcement of Vehicle Emission Standards and Enforcement Testing	
<b>Article 1</b> Assembly Line Testing	
Section 2062	Assembly-line Test Procedures 1998 and Subsequent Model years
<b>Article 2</b> Enforcement of New and In-use Vehicle Standards	
Section 2101	Compliance Testing and Inspection - New Vehicle Selection, Evaluation and Enforcement Action
Section 2109	New Vehicle Recall Provisions
Section 2110	Remedial Action for Assembly-Line Quality Audit Testing of Less than a Full Calendar Quarter of Production Prior to the 2001 Model Year
<b>Article 2.1</b> Procedures for In-Use Vehicle Voluntary and Influenced Recalls	
Section 2111	Applicability
Section 2112	Definitions
Appendix A to Article 2.1	
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls
Section 2114	Voluntary and Influenced Recall Plans
Section 2115	Eligibility for Repair
Section 2127	Notification of Owners
Section 2138	Restorative Maintenance
Section 2128	Repair Label
Section 2129	Proof of Correction Certificate
Section 2130	Capture Rates and Alternative Measures
Section 2131	Preliminary Tests
Section 2132	Communication with Repair Personnel
Section 2133	Record keeping and Reporting Requirements
Section 2135	Extension of Time
<b>Article 2.3</b> In-Use Vehicle Enforcement Test Procedures	
Section 2136	General Provisions
Section 2137	Vehicle Selection
Section 2139	Testing
Section 2140	Notification of In-Use Results
<b>Article 2.4</b> Procedures for Reporting Failure of Emission-Related Components	
Section 2141	General Provisions
Section 2142	Alternative Procedures
Section 2143	Failure Levels Triggering Recall
Section 2144	Emission Warranty Information Report
Section 2145	Field Information Report
Section 2146	Emissions Information Report
Section 2147	Demonstration of Compliance with Emission Standards
Section 2148	Evaluation of Need for Recall
Section 2149	Notification of Subsequent Action

<b>Chapter 3</b> Surveillance Testing	
Section 2150	Assembly-Line Surveillance
Section 2151	New Motor Vehicle Dealer Surveillance
<b>Chapter 4.4</b> Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks	
Section 2235	Requirements

#### **11.0 Document Availability**

Any of the documents incorporated by reference may be obtained either from the Department or from the State of California Office of Administrative Law, 300 Capitol Mall, Suite 1250 Sacramento, California 95814-4339 or at the California Office of Administrative Law website at: <http://www.oal.ca.gov/>

#### **12.0 Severability**

Each section of this subchapter is severable. In the event that any section, subsection or division is held invalid in a court of law, the remainder of this subchapter shall continue in full force and effect.